

CHAPTER 570

STEALING AND RELATED OFFENSES

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CROSS REFERENCES

Criminal activity forfeiture act, (CAFA), definitions applicable to this chapter, RSMo 513.605.
Minimum prison terms for repeat offenders for the commission of certain crimes in this chapter, RSMo 558.019.
Sale or possession of vehicles or certain equipment with altered numbers, penalty, RSMo 301.390.
Serial and other numbers, defacing on vehicles and certain equipment, penalty, RSMo 301.400.

570.030. Stealing - penalties. - 1. A person commits the crime of stealing if he or she appropriates property or services of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion.

2. Evidence of the following is admissible in any criminal prosecution pursuant to this section on the issue of the requisite knowledge or belief of the alleged stealer:

(1) That he or she failed or refused to pay for property or services of a hotel, restaurant, inn or boardinghouse;

(2) That he or she gave in payment for property or services of a hotel, restaurant, inn or boardinghouse a check or negotiable paper on which payment was refused;

(3) That he or she left the hotel, restaurant, inn or boardinghouse with the intent to not pay for property or services;

(4) That he or she surreptitiously removed or attempted to remove his or her baggage from a hotel, inn or boardinghouse;

(5) That he or she, with intent to cheat or defraud a retailer, possesses, uses, utters, transfers, makes, alters, counterfeits, or reproduces a retail sales receipt, price tag, or universal price code label, or possesses with intent to cheat or defraud, the device that manufactures fraudulent receipts or universal price code labels.

3. Notwithstanding any other provision of law, any offense in which the value of property or services is an element is a class C felony if:

(1) The value of the property or services appropriated is five hundred dollars or more but less than twenty-five thousand dollars; or

(2) The actor physically takes the property appropriated from the person of the victim; or

(3) The property appropriated consists of:

(a) Any motor vehicle, watercraft or aircraft; or

(b) Any will or unrecorded deed affecting real property; or

(c) Any credit card or letter of credit; or

(d) Any firearms; or

(e) A United States national flag designed, intended and used for display on buildings or stationary flagstuffs in the open; or

(f) Any original copy of an act, bill or resolution, introduced or acted upon by the legislature of the state of Missouri; or

(g) Any pleading, notice, judgment or any other record or entry of any court of this state, any other state or of the United States; or

(h) Any book of registration or list of voters required by chapter 115, RSMo; or

(i) Any animal of the species of horse, mule, ass, cattle, swine, sheep, or goat; or

(j) Live fish raised for commercial sale with a value of seventy-five dollars; or

(k) Any controlled substance as defined by section 195.010, RSMo; or

(l) Anhydrous ammonia; or

(m) Ammonium nitrate.

4. If an actor appropriates any material with a value less than five hundred dollars in violation of this section with the intent to use such material to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues, then such violation is a class D felony. The theft of any amount of anhydrous ammonia or liquid nitrogen, or any attempt to steal any amount of anhydrous ammonia or liquid nitrogen, is a class C felony. The theft of any amount of anhydrous ammonia by appropriation of a tank truck, tank trailer, rail tank car, bulk storage tank, field (nurse) tank or field applicator is a class A felony.

5. The theft of any item of property or services pursuant to subsection 3 of this section which exceeds five hundred dollars may be considered a separate felony and may be charged in separate counts.

6. Any person with a prior conviction of paragraph (i) of subdivision (3) of subsection 3 of this section and who violates the provisions of paragraph (i) of subdivision (3) of subsection 3 of this section when the value of the animal or animals stolen exceeds three thousand dollars is guilty of a class B felony.

7. Any offense in which the value of property or services is an element is a class B felony if the value of the property or services equals or exceeds twenty-five thousand dollars.

8. Any violation of this section for which no other penalty is specified in this section is a class A misdemeanor.

(L. 1977 S.B. 60, A.L. 1981 S.B. 202, A.L. 1985 H.B. 333 & 64, A.L. 1996 S.B. 657, A.L. 1997 H.B. 635, A.L. 1998 H.B. 1147, et al., A.L. 2001 H.B. 471 merged with S.B. 89 & 37, A.L. 2002 H.B. 1888 merged with S.B. 712)

CROSS REFERENCE:

Child support, retention of erroneously paid support to be crime of stealing, when, RSMo 454.531

(1984) Conviction for "stealing by deceit" requires proof that the victim relied on the defendant's false pretense or representation; no reliance is shown when store employees are fully aware of acts later sought to be made the basis of a false pretense. State v. Young (Mo.App.), 672 S.W.2d 366.

(1984) One can be found guilty of stealing property to which he has legal title. State v. Smith (Mo.App.), 684 S.W.2d 576.

(1984) Owner of the stolen property need not be experienced in valuating property to express an opinion of its value. The owner's opinion of the value of the stolen property may be considered substantial evidence of its worth. State v. Reilly (Mo. banc), 674 S.W.2d 530.

(1986) This section does not apply where a debtor uses false information to get an extension on an outstanding debt. State v. Grainger, 721 S.W.2d 237 (Mo.App.).

570.040. Stealing, third offense.

- 1. Every person who has previously pled guilty or been found guilty on two separate occasions of a stealing-related offense where such offenses occurred within ten years of the date of occurrence of the present offense and where the person received and served a sentence of ten days or more on such previous offense and who subsequently pleads guilty or is found guilty of a stealing-related offense is guilty of a class C felony and shall be punished accordingly.

2. As used in this section, the term "stealing-related offense" shall include federal and state violations of criminal statutes against stealing or buying or receiving stolen property and shall also include municipal ordinances against same if the defendant was either represented by counsel or knowingly waived counsel in writing and the judge accepting the plea or making the findings was a licensed attorney at the time of the court proceedings.

3. Evidence of prior guilty pleas or findings of guilt shall be heard by the court, out of the hearing of the jury, prior to the submission of the case to the jury, and the court shall determine the existence of the prior guilty pleas or findings of guilt.

(L. 1977 S.B. 60, A.L. 1995 H.B. 424, A.L. 2002 H.B. 1888)

570.090. Forgery.

- 1. A person commits the crime of forgery if, with the purpose to defraud, the person:

(1) Makes, completes, alters or authenticates any writing so that it purports to have been made by another or at another time or place or in a numbered sequence other than was in fact the case or with different terms or by authority of one who did not give such authority; or

(2) Erases, obliterates or destroys any writing; or

(3) Makes or alters anything other than a writing, including receipts and universal product codes, so that it purports to have a genuineness, antiquity, rarity, ownership or authorship which it does not possess; or

(4) Uses as genuine, or possesses for the purpose of using as genuine, or transfers with the knowledge or belief that it will be used as genuine, any writing or other thing including receipts and universal product codes, which the actor knows has been made or altered in the manner described in this section.

2. Forgery is a class C felony.

(L. 1977 S.B. 60, A.L. 2002 H.B. 1888)

570.110. Issuing a false instrument or certificate.

- 1. A person commits the crime of issuing a false instrument or certificate when, being authorized by law to take proof or acknowledgment of any instrument which by law may be recorded, or being authorized by law to make or issue official certificates or other official written instruments, he issues such an instrument or certificate, or makes the same with the purpose that it be issued, knowing:

(1) That it contains a false statement or false information; or

(2) That it is wholly or partly blank.

2. Issuing a false instrument or certificate is a class A misdemeanor.

(L. 1977 S.B. 60)

(1996) "Issue" means to deliver from authority and does not require public distribution or circulation. State v. Moriarty, 914 S.W.2d 416 (Mo.App.W.D.).

570.120. Crime of passing bad checks, penalty - actual notice given, when - administrative handling costs, amount, deposit in fund - use of fund - additional costs, amount - payroll checks, action, when - service charge may be collected - return of bad check to depositor by financial institution must be on condition that issuer is identifiable.

- 1. A person commits the crime of passing a bad check when:

(1) With purpose to defraud, the person makes, issues or passes a check or other similar sight order for the payment of money, knowing that it will not be paid by the drawee, or that there is no such drawee; or

(2) The person makes, issues, or passes a check or other similar sight order for the payment of money, knowing that there are insufficient funds in that account or that there is no such account or no drawee and fails to pay the check or sight order within ten days after receiving actual notice in writing that it has not been paid because of insufficient funds or credit with the drawee or because there is no such drawee.

2. As used in subdivision (2) of subsection 1 of this section, "actual notice in writing" means notice of the nonpayment which is actually received by the defendant. Such notice may include the service of summons or warrant upon the defendant for the initiation of the prosecution of the check or checks which are the subject matter of the prosecution if the summons or warrant contains information of the ten-day period during which the instrument may be paid and that payment of the instrument within such ten-day period will result in dismissal of the charges. The requirement of notice shall also be satisfied for written communications which are tendered to the defendant and which the defendant refuses to accept.

3. The face amounts of any bad checks passed pursuant to one course of conduct within any ten-day period may be aggregated in determining the grade of the offense.

4. Passing bad checks is a class A misdemeanor, unless:

(1) The face amount of the check or sight order or the aggregated amounts is five hundred dollars or more; or

(2) The issuer had no account with the drawee or if there was no such drawee at the time the check or order was issued, in which cases passing bad checks is a class D felony.

5. (1) In addition to all other costs and fees allowed by law, each prosecuting attorney or circuit attorney who takes any action pursuant to the provisions of this section shall collect from the issuer in such action an administrative handling cost. The cost shall be five dollars for checks of less than ten dollars, ten dollars for checks of ten dollars but less than one hundred dollars, and twenty-five dollars for checks of one hundred dollars or more. For checks of one hundred dollars or more an additional fee of ten percent of the face amount shall be assessed, with a maximum fee for administrative handling costs not to exceed fifty dollars total. Notwithstanding the provisions of sections 50.525 to 50.745, RSMo, the costs provided for in this subsection shall be

deposited by the county treasurer into a separate interest-bearing fund to be expended by the prosecuting attorney or circuit attorney. The funds shall be expended, upon warrants issued by the prosecuting attorney or circuit attorney directing the treasurer to issue checks thereon, only for purposes related to that previously authorized in this section. Any revenues that are not required for the purposes of this section may be placed in the general revenue fund of the county or city not within a county. Notwithstanding any law to the contrary, in addition to the administrative handling cost, the prosecuting attorney or circuit attorney shall collect an additional cost of one dollar per check for deposit to the Missouri office of prosecution services fund established in subsection 2 of section 56.765, RSMo. All moneys collected pursuant to this section which are payable to the Missouri office of prosecution services fund shall be transmitted at least monthly by the county treasurer to the director of revenue who shall deposit the amount collected pursuant to the credit of the Missouri office of prosecution services fund under the procedure established pursuant to subsection 2 of section 56.765, RSMo.

(2) The moneys deposited in the fund may be used by the prosecuting or circuit attorney for office supplies, postage, books, training, office equipment, capital outlay, expenses of trial and witness preparation, additional employees for the staff of the prosecuting or circuit attorney and employees' salaries.

(3) This fund may be audited by the state auditor's office or the appropriate auditing agency.

(4) If the moneys collected and deposited into this fund are not totally expended annually, then the unexpended balance shall remain in said fund and the balance shall be kept in said fund to accumulate from year to year.

6. Notwithstanding any other provision of law to the contrary:

(1) In addition to the administrative handling costs provided for in subsection 5 of this section, the prosecuting attorney or circuit attorney may collect from the issuer, in addition to the face amount of the check, a reasonable service charge, which along with the face amount of the check, shall be turned over to the party to whom the bad check was issued;

(2) If a check that is dishonored or returned unpaid by a financial institution is not referred to the prosecuting attorney or circuit attorney for any action pursuant to the provisions of this section, the party to whom the check was issued, or his or her agent or assignee, or a holder, may collect from the issuer, in addition to the face amount of the check, a reasonable service charge, not to exceed twenty-five dollars, plus an amount equal to the actual charge by the depository institution for the return of each unpaid or dishonored instrument.

7. In all cases where a prosecutor receives notice from the original holder that a person has violated this section with respect to a payroll check or order, the prosecutor, if he determines there is a violation of this section, shall file an information or seek an indictment within sixty days of such notice and may file an information or seek an indictment thereafter if the prosecutor has failed through neglect or mistake to do so within sixty days of such notice and if he determines there is sufficient evidence shall further prosecute such cases.

8. When any financial institution returns a dishonored check to the person who deposited such check, it shall be in substantially the same physical condition as when deposited, or in such condition as to provide the person who deposited the check the information required to identify the person who wrote the check.

(L. 1977 S.B. 60, A.L. 1989 S.B. 310, A.L. 1992 S.B. 705, A.L. 1993 S.B. 180, A.L. 2001 H.B. 80, A.L. 2002 H.B. 1888)

CROSS REFERENCE:

Taxes paid with bad checks, penalty, RSMo 139.235

570.123. Civil action for damages for passing bad checks, only original holder may bring action -

limitations - notice requirements - payroll checks, action to be against employer. - In addition to all other penalties provided by law, any person who makes, utters, draws, or delivers any check, draft, or order for the payment of money upon any bank, savings and loan association, credit union, or other depository, financial institution, person, firm, or corporation which is not honored because of lack of funds or credit to pay or because of not having an account with the drawee and who fails to pay the amount for which such check, draft, or order was made in cash to the holder within thirty days after notice and a written demand for payment, deposited as certified or registered mail in the United States mail, or by regular mail, supported by an affidavit of service by mailing, notice deemed conclusive three days following the date the affidavit is executed, and addressed to the maker and to the endorser, if any, of the check, draft, or order at each of their addresses as it appears on the check, draft, or order or to the last known address, shall, in addition to the face amount owing upon such check, draft, or order, be liable to the holder for three times the face amount owed or one hundred dollars, whichever is greater, plus attorney fees incurred in bringing an action pursuant to this section. Only the original holder, whether the holder is a person, bank, savings and loan association, credit union, or other depository, financial institution, firm or corporation, may bring an action pursuant to this section. No original holder shall bring an action pursuant to this section if the original holder has been paid the face amount of the check and costs recovered by the prosecuting attorney or circuit attorney pursuant to subsection 6 of section 570.120. If the issuer of the check has paid the face amount of the check and costs pursuant to subsection 6 of section 570.120, such payment shall be an affirmative defense to any action brought pursuant to this section. The original holder shall elect to bring an action pursuant to this section or section 570.120, but may not bring an action pursuant to both sections. In no event shall the damages allowed pursuant to this section exceed five hundred dollars, exclusive of attorney fees. In situations involving payroll checks, the damages allowed pursuant to this section shall only be assessed against the employer who issued the payroll check and not against the employee to whom the payroll check was issued. The provisions of sections 408.140 and 408.233, RSMo, to the contrary notwithstanding, a lender may bring an action pursuant to this section. The provisions of this section will not apply in cases where there exists a bona fide dispute over the quality of goods sold or services rendered.

(L. 1985 S.B. 264 § 2, A.L. 1989 S.B. 310, A.L. 1993 S.B. 180, A.L. 2002 H.B. 1888)

570.125. Fraudulently stopping payment on an instrument, penalties.

- 1. A person commits the crime of "**fraudulently stopping payment of an instrument**" if he, knowingly, with the purpose to defraud, stops payment on a check or draft given in payment for the receipt of goods or services.

2. Fraudulently stopping payment of an instrument is a class A misdemeanor, unless the face amount of the check or draft is five hundred dollars or more or, if the stopping of payment of more than one check or draft is involved in the same course of conduct, the aggregate amount is five hundred dollars or more, in which case the offense is a class D felony.

3. It shall be prima facie evidence of a violation of this section if a person stops payment on a check or draft and fails to make good the check or draft, or return or make and comply with reasonable arrangements to return the property for which the check or draft was given in the same or substantially the same condition as when received within ten days after notice in writing from the payee that the check or draft has not been paid because of a stop payment order by the issuer to the drawee.

4. "**Notice in writing**" means notice deposited as certified or registered mail in the United States mail and addressed to the issuer at his address as it appears on the dishonored check or draft or to his last known address. The

notice shall contain a statement that failure to make good the check or draft within ten days of receipt of the notice may subject the issuer to criminal prosecution.

(L. 1983 S.B. 75, A.L. 1985 S.B. 264, A.L. 2002 H.B. 1888)

570.130. Fraudulent use of a credit device or debit device - penalty. - 1. A person commits the crime of fraudulent use of a credit device or debit device if the person uses a credit device or debit device for the purpose of obtaining services or property, knowing that:

(1) The device is stolen, fictitious or forged; or
(2) The device has been revoked or canceled; or
(3) For any other reason his use of the device is unauthorized; or

(4) Uses a credit device or debit device for the purpose of paying property taxes and knowingly cancels said charges or payment without just cause. It shall be prima facie evidence of a violation of this section if a person cancels said charges or payment after obtaining a property tax receipt to obtain license tags from the Missouri department of revenue.

2. Fraudulent use of a credit device or debit device is a class A misdemeanor unless the value of the property tax or the value of the property or services obtained or sought to be obtained within any thirty-day period is five hundred dollars or more, in which case fraudulent use of a credit device or debit device is a class D felony.

(L. 1977 S.B. 60, A.L. 1999 S.B. 328, et al., A.L. 2002 H.B. 1888 merged with S.B. 895)

570.135. Fraudulent procurement of credit or debit card - penalty - limitation of liability - personal identifying information, defined. - 1. No person shall knowingly make or cause to be made, directly or indirectly, a false statement regarding another person for the purpose of fraudulently procuring the issuance of a credit card or debit card.

2. No person shall willfully obtain personal identifying information of another person without the authorization of that person and use that information fraudulently to obtain, or attempt to obtain, credit, goods or services in the name of the other person without the consent of that person.

3. Any person who violates the provisions of subsection 1 or 2 of this section is guilty of a class A misdemeanor.

4. As used in this section, "personal identifying information" means the name, address, telephone number, driver's license number, Social Security number, place of employment, employee identification number, mother's maiden name, demand deposit account number, savings account number or credit card number of a person.

5. Notwithstanding subsections 1 to 4 of this section, no corporation, proprietorship, partnership, limited liability company, limited liability partnership or other business entity shall be liable under this section for accepting applications for credit cards or debit cards or for the credit cards or debit cards in any credit or debit transaction, absent clear and convincing evidence that such business entity conspired with or was a part of the fraudulent procuring of the issuance of a credit card or debit card.

(L. 1999 S.B. 386 § 2)

570.140. Deceptive business practice. - 1. A person commits the crime of deceptive business practice if in the course of engaging in a business, occupation or profession, he recklessly

(1) Uses or possesses for use a false weight or measure, or any other device for falsely determining or recording any quality or quantity; or

(2) Sells, offers or exposes for sale, or delivers less than the represented quantity of any commodity or service; or

(3) Takes or attempts to take more than the represented quantity of any commodity or service when as a buyer he furnishes the weight or measure; or

(4) Sells, offers or exposes for sale adulterated or mislabeled commodities; or

(5) Makes a false or misleading written statement for the purpose of obtaining property or credit.

2. Deceptive business practice is a class A misdemeanor.

(L. 1977 S.B. 60)

570.180. Defrauding secured creditors. - 1. A person commits the crime of defrauding secured creditors if he destroys, removes, conceals, encumbers, transfers or otherwise deals with property subject to a security interest with purpose to defraud the holder of the security interest.

2. Defrauding secured creditors is a class A misdemeanor unless the amount remaining to be paid on the secured debt, including interest, is five hundred dollars or more, in which case defrauding secured creditors is a class D felony.

(L. 1977 S.B. 60)

570.217. Misapplication of funds of a financial institution, penalties. - 1. A person commits the crime of misapplication of funds of a financial institution if, being an officer, director, agent, or employee of, or connected in any capacity with, any bank, trust company, savings and loan association, or credit union, he embezzles, abstracts, purloins, or willfully misapplies any of the money, funds, or credits of such institution or any moneys, funds, assets, or securities entrusted to the custody or care of such institution, or to the custody or care of any such agent, officer, director, employee, or receiver.

2. Misapplication of funds of a financial institution is a class C felony, but if the amount embezzled, abstracted, purloined, or misapplied does not exceed one thousand dollars, it is a class D felony.

(L. 1985 H.B. 408 § 570.195, A.L. 1991 S.B. 206)

570.219. False entries in the records of a financial institution with intent to defraud, penalty. - 1. A person commits the crime of making false entries in the records of a financial institution if he makes any false entry in any book, report, or statement of a bank, trust company, savings and loan association, or credit union with intent to injure or defraud such bank, trust company, savings and loan association, or credit union, or any other company, body politic or corporate, or any individual person, or with intent to deceive any officer or director of such bank, trust company, savings and loan association, or credit union, or any agent or examiner appointed to examine the affairs of such bank, trust company, savings and loan association or credit union.

2. Making false entries in the records of a financial institution is a class C felony.

(L. 1985 H.B. 408 § 570.200, A.L. 1991 H.B. 206)

570.220. Check kiting, penalty - financial institution and collected funds defined. - 1. A person commits the crime of check kiting if he, pursuant to a scheme or artifice to defraud, obtains money from a financial institution by drawing a check against an account in which there are not sufficient collected funds to pay the check and, as part of the scheme or artifice, he purports to cover that check by depositing in such account another check drawn against insufficient collected funds.

2. For purposes of this section, the term **"financial institution"** shall mean a bank, trust company, savings and loan association, or credit union; **"check"** shall include any check, draft, negotiable order of withdrawal, or similar instrument used to transfer or withdraw funds held in a deposit account at a financial institution; and the term **"collected funds"** shall mean that portion of a deposit account representing checks and other credits as to which the depository has directly and affirmatively verified that final payment has been made or, in the alternative, with respect to checks as to which at least ten business days have elapsed, without return of the checks, since presentation for payment.

3. Check kiting is a class C felony.
(L. 1985 H.B. 408 § 570.210)

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